

**THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

MICHAEL AND SHELLIE GILMOR,  
et al.,

Plaintiffs,

vs.

PREFERRED CREDIT CORPORATION,  
et al.,

Defendants.

Case No. 4:10-cv-00189-ODS

**MOTION TO FILE JOINT SUGGESTIONS IN EXCESS OF 15 PAGES  
IN OPPOSITION TO “NON-HOLDER” DEFENDANTS’ MOTIONS TO DISMISS  
PLAINTIFFS’ SIXTH AMENDED PETITION FOR LACK OF STANDING**

Plaintiffs respectfully move the Court for an Order permitting them to file a joint set of Suggestions of no more than 70 double-spaced, typewritten pages in opposition to Defendants’ pending motions to dismiss for “lack of standing” (Doc. 75, Ex.’s 7-11; Doc. 67, 68; Doc. 84) on the grounds that good cause exists for such an Order given the complexity of this class action and the number of defendants, issues, authorities, loan and investment transactions, and exhibits involved. Plaintiffs have done their level best to cull and condense the issues and arguments, but have concluded in good faith that they will need up to 55 additional pages to adequately explain why Defendants’ motions to dismiss should be denied. In support of this motion, Plaintiffs state as follows:

1. Plaintiffs are faced with two (2) separate and lengthy motions to dismiss filed by numerous Defendants (the “Moving Defendants”). The Motion and Suggestions filed by the so-called “Non-Holder” Defendants (Residential Funding Company, LLC (f/k/a Residential Funding Corporation), Sovereign Bank, Empire Funding Home Loan Owner Trust 1998-1 and its

trustees, U.S. Bank National Association and Wilmington Trust Company, Countrywide Home Loans, Inc., Wells Fargo Bank, N.A., Ocwen Loan Servicing, LLC, United Mortgage C.B., LLC, Credit-Based Asset Servicing & Securitization, LLC, IMH Assets Corporation, IMPAC CMB Trust Series 2003-5, LaSalle National Bank, and Litton Loan Servicing, LP, the F.D.I.C. (as receiver for Corus Bank, N.A.) total **32 pages**, with more than 30 exhibits, counting yesterday's supplement. (Doc. 75, Ex. 7; Doc.84) Defendants JPMorgan Chase Bank, N.A., Wendover Financial Services, LLC, Preferred Mortgage Trust 1996-1, Preferred Mortgage Trust 1996-2, Preferred Credit Trust 1997-1 and Deutsche Bank Trust Company Americas (f/k/a Bankers Trust Company), as trustee, have each joined in the "Non-Holder" Defendants Motion. (Doc. 75, Ex.'s 8-10; Doc. 11) Although these latter "motions" are joinder motions only, Plaintiffs must still describe and address the involvement of, and direct their arguments toward, each of the five additional moving defendants. Defendant Credit Suisse First Boston Mortgage Securities has filed a separate motion and suggestions, and devotes approximately **16 pages** to the issue. (Doc. 67, 68).

2. Given the complexity of the issues and the arguments made, the truly exceptional number of cases and other authorities cited (some just yesterday – Doc. 84), the number of defendants, and the number of loan and investment transactions and exhibits involved, Plaintiffs need more than 15 each pages to oppose Defendants' motions. Plaintiffs respectfully request that the Court permit them to file a set of joint suggestions in opposition to all the motions to dismiss of up to 70 pages in total.

3. This motion for excess pages is made in good faith and not for any dilatory purpose. Plaintiffs sincerely believe that the requested number of pages is needed to adequately apprise the Court of the Missouri Second Mortgage Loans Act (SMLA), §§ 408.231 RSMo, et

seq., the principles of assignee liability involved in the case, and several other issues. Plaintiffs also note that several “pages” of their joint suggestions will consist of headings and block quotes to the pertinent statutes and prior rulings of the Clay County Court. Thus, Plaintiffs’ arguments will be considerably less than 70 pages. The Court should also take into account that the case has a 10 year history, with numerous filings.

4. Similar motions to dismiss were filed by the assignee defendants in two substantially similar Missouri second mortgage class actions, *Couch v. SMC Lending, Inc.*, CV100-4332CC (Mo. Cir. Ct.) (Clay County) and *Baker v. Century Financial Group, Inc.*, CV100-4294CC (Mo. Cir. Ct.) (Clay County). The plaintiffs’ joint suggestions in opposition to the motions to dismiss in those two cases were each approximately 40 pages long, with 10-15 exhibits; however, there was no need for any detailed overview or statutory section in these prior suggestion given the Clay County Court’s familiarity with these cases. Nor was there any need to discuss removal.

5. Plaintiffs have apprised counsel for Defendants of this motion and request for excess pages via e-mail today; no defendant has opposed the request, although Plaintiffs have not heard from several of the defendants. Plaintiffs have filed this motion before receiving all responses given the deadline for the subject Suggestions, the large number of defendants and defense counsel to be heard from, and given the fact that the ECF system will not be available, beginning later today.

6. This motion for excess pages will not unfairly prejudice any Defendant, Moving and Non-Moving alike.

WHEREFORE, Plaintiffs respectfully request the Court to find that cause has been shown and enter an Order permitting them to file a joint set of Suggestions of no more than 70

pages in opposition to Defendants' pending motions to dismiss for lack of standing (Doc. 75, Ex.'s 7-10, 11, Doc. 67, 68; Doc. 84).

Dated: November 12, 2010

Respectfully Submitted,

WALTERS BENDER STROHBEHN  
& VAUGHAN, P.C.

By /s/ Kip D. Richards

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document was filed electronically with the Clerk of the United States District Court for the Western District of Missouri, Western Division, this 12<sup>th</sup> day of November 2010, with notice of case activity to be generated and sent electronically to all designated persons.

/s/ Kip D. Richards